

OLYMPIC COAST NATIONAL MARINE SANCTUARY

Meeting Notes

**Sanctuary Advisory Council Meeting
May 21, 2010
Clallam County Courthouse
Port Angeles, WA**

Olympic Coast National Marine Sanctuary
NOAA, Office of National Marine Sanctuaries
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Port Angeles, WA 98362-2925
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Reviewed by SAC Secretary

Reviewed by OCNMS Superintendent

Approved by SAC

Advisory Council Members in Attendance: *Ellen Matheny, Lee Whitford, Rebecca Post, David Price, Chip Boothe, Meri Parker, Bob Bohlman, Brady Scott, George Hart, Steve Joner, Fayette Krause, Steve Fradkin, Joel Kawahara, Joe Schumacker, Phil Johnson, Jennifer Hagen, Roy Morris, Terrie Klinger*

OCNMS Staff in Attendance: *Carol Bernthal, George Galasso, Lauren Bennett, Andy Palmer, Liam Antrim, Ed Bowlby, Patrick A'Hearn, Jennifer Bright, Katie Brenkman*

Presenters: *Dr. Julia Parrish*

Members of the Public in Attendance: *Eric Wilkins (NWIFC), Cat Hawkins (ONP), Todd Suess (ONP), Vicki Mansfield, Joanne Roberts (COASST), Graywolf Nattinger, Rich Osborne (North Pacific Coast MRC), Coleman Byrnes (COASST & Streamkeeper), Rose Forbes (COASST), Sue Nattinger (COASST), Ann Elliott (COASST), Judy Rost (COASST), Dave Gittleman, Miriam Bobkoff (COASST), Judith MacKenzie (COASST), Sue Keilman (COASST)*

ACTION ITEMS:

- The data management letter to Dan Basta was approved (with minor changes). The letter will be finalized, signed by Chip, sent to Dan and posted on the AC website.
- Chip will report back to the group on the NMSA reauthorization listening session that he attends on May 24 with Rep. Capps' office
- OCNMS staff will talk with the Pacific Fisheries Management Council (PFMC) about the PFMC's involvement in commenting on the Draft Management Plan.
- AC members have until June 7 to submit additional comments on the management plan implementation table.
- OCNMS will find out whether there are any parts of the MPR/NEPA process at which OCNMS is restricted from sharing ex-parte information with the AC.
- OCNMS will investigate if the NEPA document would/could be a programmatic document and if OCNMS will integrate its compliance with other federal laws (Endangered Species Act) into the NEPA document.

FUTURE AGENDA TOPICS:

- EPA presentation on its role in regulating water quality in marine waters
- Department of Ecology presentation on how cultural resources are protected during spill responses

DISCUSSION SUMMARY:

Chip Boothe welcomed everyone to the meeting. AC members and members of the public introduced themselves. Rebecca Post moved to accept the agenda. Joe Kawahara seconded the motion. The motion was approved unanimously. Chip asked if there were any comments on the March minutes. David Price noted that he was introduced as a new member (for the second time) in the March minutes. Andy Palmer said he would correct that. Bob Bohlman moved to approve the March minutes (with the minor change). Joel Kawahara seconded the motion and the March minutes were approved unanimously.

Carol Bernthal introduced Dr. Julia Parrish, who directs the Program on the Environment at the University of Washington as well as the COASST program (Coastal Observation and Seabird Survey Team) and who in large part led monitoring efforts related to last fall's seabird wreck on the Outer Coast

of Washington and Oregon. Dr. Parrish presented data collected from last fall's seabird wreck and discussed ongoing efforts to understand the causes of and mechanisms underlying last fall's wreck. Several members of the public and the AC asked follow-up questions. Prof. Parrish's presentation will be available on-line at http://olympiccoast.noaa.gov/AboutUs/sac/sac_meetschedule.html sometime this summer.

Steve Fradkin made a brief announcement about the Elwha River Dam Removal project. The actual dam removal is going to begin soon and, in anticipation, Olympic National Park has initiated a "last dam summer" education/outreach program. Steve handed out "last dam summer" buttons to the group.

Sanctuary Advisory Council Summit

Chip provided a report-out on the recent national Sanctuary Advisory Council Summit, which was held at the Lake Crescent Lodge and Olympic Park Institute. Chip summarized Dan Basta's main messages and themes. Dan emphasized the importance of sanctuaries remaining relevant within the context of national issues (e.g., marine spatial planning, climate change). The 2012 federal budget includes an additional \$4.5 million for Office of National Marine Sanctuaries (ONMS). Another theme that Dan emphasized was the role of sanctuaries as sentinel sites for climate change monitoring. Dan mentioned the importance of multi-cultural and multi-lingual ocean education programs. Cultural diversity was a theme at the summit and attendees all valued the opportunity to visit the Makah Reservation and tour the Makah Cultural and Research Museum. Finally, Dan emphasized the importance of reauthorizing the National Marine Sanctuaries Act (NMSA).

NMSA Reauthorization

Chip conveyed that during the summit he, and all sanctuary advisory council chairs, were invited to participate in a listening session (conference call) with Rep. Capps (CA), who is considering proposing an NMSA reauthorization bill. Chip has agreed to participate on the call, which is happening on Monday, May 24 and said he anticipated that he would just listen and at most support the importance of reauthorization. Chip asked AC members if they had issues/concerns that they would like him to raise on the call. The group had a lengthy discussion about 1) Chip's involvement in the listening session, 2) the potential for NMSA reauthorization and 3) the OCNMS AC's previous comments on reauthorization in 2002.

Andy noted that, in their meeting packets, AC members were provided a copy of an OCNMS Advisory Council resolution/letter from 2002 related to NMSA reauthorization. Andy noted that one issue that may be of concern to the AC related to NMSA reauthorization is the fact that the OCNMS AC is currently limited to 15 seats (by Congress). He suggested that one thing the AC could consider is recommending an increase in the number of seats so that all of the seats could vote or so that additional seats could be added. Andy then mentioned another issue that could arise during the NMSA reauthorization process is the potential inclusion of term limits for non-governmental/tribal advisory council seats – it is likely that something related to term limits will show up in NMSA legislation and ONMS itself is interested in developing a term limits policy. Chip asked AC members if they were interested in responding to NMSA legislation, should it be proposed, and if they were any particular issues they would like to see addressed in a revised NMSA.

An AC member asked the AC keep separate the two issues of, 1) the listening session Chip has been invited to with Rep. Capps, and 2) any potential NMSA legislation. A member recommended that Chip participate solely as a listener (and not a representative of the OCNMS AC) on the conference call with Rep. Capps. The member noted that the AC has a history of addressing and commenting on NMSA

reauthorization – the AC could work on this topic again if an NMSA bill is proposed and made public. Chip said that if he did say anything on the call, it would be as “Chip the individual”.

An AC member asked if any Washington state congressional representatives are involved with the Capps bill. Carol said that Senator Cantwell is on the natural resources committee, but not involved in drafting the legislation with Capps. One member noted that Rep. Capps will not accept electronic comments on her website unless you are from a local zip code. Another member noted that the Quinault Indian Nation has contacted Rep. Capps office by phone, but has not yet received a response. An AC member suggested that Washington state representatives should be encouraged to get involved in this process and contact Rep. Capps.

After a lengthy discussion, the group agreed that Chip will sit in on the call as an individual, not representing the AC. If there is an opportunity, Chip will mention the formation of the IPC and the role that it plays in sanctuary management. He will report back to the council at its next meeting in July. There was consensus that the AC would not actively work on the issue of reauthorization until draft legislation is proposed. At that time, the AC will reassess the issue.

Andy Palmer followed up with some additional notes about the AC Summit. Nationally, efforts are being made to “elevate” advisory council coordinator positions and develop a national “cross-cut” group of AC Coordinators. Dan Basta is also thinking about a “council” of AC Chairs (one chair from each region or something along those lines) – this is just an idea right now. Nationally, ONMS is looking at issues that may be critical to all or most ACs (such as ocean acidification), and looking for ways to get ACs working on areas of common interest across sanctuaries.

Data Management Letter

AC members next considered the draft AC letter to Dan Basta on OCNMS data management needs. Chip thanked Joe Schumacker for drafting the letter. Chip asked members if they had any comments on the letter. A couple of members suggested organizational/structural and other minor edits to the letter. These changes did not alter the substance of the letter. Bob Bohlman moved to accept the letter (with the non-substantive edits requested) and forward it on to Carol to send on to Dan Basta. Joel Kawahara seconded the motion. The motion was adopted unanimously.

Management Plan Review Update

George Galasso provided an update on the management plan review process. George reviewed the MPR process diagram – we are now in Phase IV of the management plan review process. The Preliminary Draft Action Plans (discussed at the last AC meeting) represents the bulk of the revised management plan. OCNMS staff now has to clean up the action plans and add in the additional compliance information that is needed. The MPR process timeline has us completing a draft of the entire document in July – George thinks this draft may be very rough. Thus, OCNMS may only be prepared to give an update (not provide a draft) in July. OCNMS staff is also working to set up government-to-government meetings with the tribes. The timeline has OCNMS providing a draft of the entire management plan (including compliance documentation) to the AC in September. George is not sure if this will be possible. This additional check-in with the AC was added in to the timeline recently. If OCNMS does provide a document to the AC in September, there will likely be only a brief comment period associated with it (because the timeline is so tight). George said that the goal is for the draft management plan and compliance document to be released for public comment in January. OCNMS will also be publishing a public notice of rulemaking, which will hopefully be published at the same time (or close to the same time) as the draft management plan.

George stated that very few changes have been made to the action plans since the AC last saw them in March. One change is that OCNMS staff have added in a strategy for working with the Coastal Treaty Tribes in the Collaborative and Coordinated Sanctuary Management Action Plan. One member asked if there would be a strategy for each individual tribe. George said that OCNMS is open to that if the tribes wanted individual strategies. George also noted that OCNMS staff added into the action plans descriptions of (not verbatim language changes to) the regulatory changes that they think will be proposed in the rulemaking process. That way, when we analyze all the actions in the management plan as part of the National Environmental Policy Act compliance process, these regulatory changes can be included in the discussion.

George stated that OCNMS staff are continuing to work on the performance measures (though not a lot of progress has been made). Lauren noted that the action plan comments that individual AC members submitted after the March meeting have been incorporated into the action plans. George noted that not a lot of changes have been made to the potential OCNMS regulatory changes that OCNMS shared with the AC in March. OCNMS is still waiting to have the government-to-government meetings with the tribes and is in the process of ongoing discussions with the IPC. George noted that OCNMS has decided not to pursue any regulatory changes to the current Department of Defense exemption in the OCNMS regulations.

George next reviewed the process by which OCNMS incorporated individual AC member comments on the implementation table (that will come at the end of the management plan). He passed out a revised implementation table to the AC and noted that the revised table is still in “draft” form. He also noted that the implementation table will not solely dictate what MP strategies are implemented. In making decisions about what strategies will be implemented, OCNMS will consider the implementation table, along with funding, partners’ interests, current staff expertise and other factors. George noted that seven AC members and ten OCNMS staff members provided rankings that contributed to the table. In some cases, folks (AC and OCNMS staff) did not choose to provide a ranking for every strategy.

An AC member asked how many of the strategies could be accomplished with level funding (she noted that many strategies are ranked as “high” priorities). George said that it is within the realm of possibility that the high strategies under the level funding budget scenario could be accomplished with level-funding (depending upon how much grant money OCNMS received). George also noted that many of the strategies are scalable and thus could be achieved on a smaller scale than intended should the budget be restrictive. George also reminded the AC that the management plan is a five-year plan and not every strategy needed to happen every year.

George discussed the purpose for including the implementation table in the management plan (because there were more strategies and activities than what can be achieved). AC members discussed the pros and cons of having more strategies in the management plan than are realistically achievable. Some members felt it was good to include all the strategies; other members felt that it would be better to have a pared-down list of strategies that can be achieved.

Liam Antrim explained how OCNMS staff combined everyone’s rankings (staff and AC rankings). Staff gave a numeric value to each “low”, “medium” and “high” ranking and then averaged all the rankings for each strategy. Staff then sorted the averages (high to low) and then worked to identify break points between high, medium and low rankings (this was an admittedly subjective process). In general, most strategies came out with an average high ranking (under all budget scenarios). One member commented that using averages might be problematic because the original scores might have been all over the map. Lauren commented that the rankings were all over the map (some people ranked a

strategy high and others ranked the same strategy low). Thus, it is difficult to reconcile all the rankings – averaging seemed to be the easiest way. One member asked if there were any differences seen between AC rankings and staff rankings. Liam said that there were no noticeable trends/differences between the AC and staff rankings (both AC and staff rankings tended to be all over the map). Liam then pointed out the strategies that did rank lowest.

George concluded by saying that OCNMS has not received feedback from the IPC on the implementation table yet. He is going to do more work to see how the implementation table will fit with OCNMS's annual operating plan (budgeting) process. The final implementation table will be included in the management plan.

Lauren Bennett presented an overview of how the management plan will comply with the National Environmental Policy Act (NEPA) and the National Historic Preservation Act (NHPA). OCNMS wants to make sure that the AC understands the compliance documentation that will accompany the management plan. Under NEPA OCNMS is required (as a federal agency) to consider the impacts of its actions (i.e., revising the management plan) on environmental resources (including socioeconomic resources). Under the NHPA, OCNMS is required to consider the impacts of its actions specifically on historic resources and properties.

OCNMS is planning to produce one large document that includes, 1) the management plan, 2) NEPA compliance (either an Environmental Assessment [EA] or Environmental Impact Statement [EIS]) and 3) NHPA compliance. In its 2008 Notice of Intent, OCNMS stated an intent to prepare an EIS under NEPA. We are not sure if an EIS will be necessary at this point; we may only need to do an EA. This determination has not been made. OCNMS will integrate its NHPA compliance into the NEPA document, and will pursue development of a more comprehensive programmatic agreement under the NHPA during the management plan implementation process. Lauren noted that OCNMS published a new Notice of Intent in the Federal Register in March explaining how the revised management plan would comply specifically with the NHPA (all AC members received a copy). One member asked if the OCNMS NEPA document would be a programmatic document and if OCNMS would integrate its compliance with other federal laws (Endangered Species Act) into the NEPA document. Lauren said that she wasn't sure if the document will be programmatic, but would ask OCNMS headquarters. Lauren said that she believed compliance with other environmental laws would occur separately, but will ask headquarters for more information on this.

Lauren reviewed all the compliance information that would be included in the Draft Management Plan and NEPA document that is published next year. There will introductory material, a review of the MPR process, a discussion of the affected environment, a discussion of scoping ideas considered but not developed into alternatives, and a discussion of alternatives. The 20 action plans that comprise the draft management plan will be in their own, stand-alone chapter.

Lauren reviewed the alternatives that will be considered in the NEPA document. These alternatives are in an early state of development and will likely be modified. The first alternative (A) will be the "no action" alternative (i.e., do not revise the 1994 management plan) – this will not be the "preferred" alternative. The second alternative (B) will be the 20 action plans developed by staff, the AC and the IPC – this will be the preferred alternative. The third alternative (C) will be similar to alternative B but with four modifications. The four modifications OCNMS staff are considering:

1. Modifying the Area to be Avoided strategy in the Spills Action Plan to make it mandatory in some way.

2. Broaden the cruise ship discharge ban activity in the Water Quality Protection action plan to include a ban on discharges from larger vessels.
3. Modify the Wildlife Disturbance action plan to include an activity that reduces the overflight floor over OCNMS from 2000 feet to 1000 feet
4. Modify the Habitat Protection Plan, Invasive Species strategy to include a regulatory ban on discharging invasive species in the sanctuary.

Members expressed concerned about how the ATBA alternative C strategy is written. A member commented that the Spills working group did not see a need to recommend that the ATBA be mandatory and that the shipping industry would have a lot of concerns about this. Lauren reiterated that this would not be a “preferred” alternative and that the NEPA document would explore the socioeconomic and other impacts of undertaking this alternative. Lauren commented that OCNMS staff can refine these alternatives further based upon feedback from the AC and others. The alternatives are in the early development phase. At least one member expressed concern that the shipping industry was being heavily targeted in alternative C (particularly through the ATBA and vessel discharge modifications). One member commented that the alternatives should really come from ideas that were considered (but rejected) by working groups – the alternatives should have a credible basis.

One member asked if OCNMS would justify why its preferred alternative is preferred in the NEPA document. Lauren said that staff will have to analyze the environmental impacts of all the alternatives and also explain why its preferred alternative is preferred in the NEPA document. One member asked if additional alternatives (beyond three alternatives) were considered. Lauren and George responded that OCNMS did not consider developing more than three alternatives. Given the scope of the actions being considered, OCNMS was advised that three alternatives were adequate.

One member asked if there was a point in the NEPA process during which OCNMS is restricted from providing ex-parte information to the AC. Carol said that staff would look into this.

Lauren concluded by stating that the NHPA compliance would appear as a specific section in the Environmental Consequences chapter of the Draft Management Plan/NEPA/NHPA document. Lauren said that OCNMS will be actively soliciting information from historical/cultural resource partners that might help to inform its NHPA analysis. Lauren reminded AC members that, in addition to providing feedback/comments to OCNMS at this and future meetings, they will also have an opportunity to comment formally on the entire Draft Management Plan and NEPA/NHPA document when it is published (there will be a 60-day comment period). One member expressed concern that a 60-day comment period might not allow enough time for the Pacific Fishery Management Council (PFMC) to provide comments. OCNMS staff expressed concern that the management plan review timeline is very tight. AC members expressed a strong interest in seeing PFMC have adequate time to comment on the management plan, especially given all the recent efforts to improve the relationship between OCNMS and the PFMC. It was agreed that OCNMS staff will talk with PFMC staff and committee chairs about how to involve PFMC in the commenting process. OCNMS staff will report back to the AC on this at the July meeting.

Superintendent’s Report

Carol mentioned that Sen. Cantwell introduced a reauthorization of the U.S. Coast Guard Act that includes discussion of the Area-to-be-Avoided (ATBA). It is unclear whether the legislation would make the ATBA mandatory or would expand the ATBA to apply to additional vessels. The legislation would also require a spill response drill in the sanctuary, would expand the high port volume area to include

the area between Port Angeles and Cape Flattery and may require a permanent tug in Neah Bay. The legislation also includes language about working with tribes.

There was also a Marine Spatial Planning bill that was passed by the state of Washington. The bill requires that a plan for a Marine Spatial Plan be developed in the next year, and the state has asked NOAA to participate as a federal liaison, working with the state Ocean Caucus in developing the plan. Kris Wall, NOS and Carol Bernthal, OCNMS will serve as the NOAA representatives. A humpback whale was entangled in fishing gear in the sanctuary. Staff from Cascadia Research, a authorized responder, succeeded in partially freeing the whale, but had to return to shore and has not able to locate the whale since.

OCNMS joined in on a call with the U.S. Coast Guard to discuss the response to a barge that lost its tow line down near the Columbia River. The barge was requesting to go into calmer waters near Clallam Bay. However, the barge would be dragging 1700 feet of tow line through the sanctuary. OCNMS expressed concern about the impacts of seafloor habitats. Ultimately it was decided, for operational reasons, to take the barge into the Columbia River.

The NOAA R/V Fairweather will be in the sanctuary doing habitat mapping in June. The NOAA R/V MacArthur will be conducting a deep sea coral cruise in the sanctuary in June (as part of a larger west coast region cruise).

This summer OCNMS is going to be hosting several volunteers from Thunder Bay NMS as part of a sanctuary volunteer exchange program.

Public Comment

Rich Osborne gave public comment. He is the coordinator of the North Pacific Coast Marine Resources Committee (MRC). He noted that the NW Straits Commission is on the AC, but it might be even more fitting to have an MRC seat on the council (now that there are MRCs on the Outer Coast). He mentioned that the MRC is actively working on research, education and stewardship projects on the Outer Coast.

Announcements and Future Agenda Items

One of Joe Schumacker's employees, Jonnette Bastian-James (Harmful Algal Bloom Specialist) was the winner of the 2010 NOAA Excellence Award for promoting diversity in coastal resource management for her work on harmful algal blooms. Congratulations Jonnette!

Future agenda items are listed above (before the meeting summary)

Vote to Adopt Meeting Notes

The AC voted (unanimously) to adopt these meeting notes at its July 16, 2010 meeting.